

## Chapter CXV.

### DEBATE IN COMMITTEE OF THE WHOLE.

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**5203. The motion to close general debate in Committee of the Whole is made pending the motion that the House resolve itself into committee, and though not debatable, the previous question is sometimes asked to prevent attempts at amendment of the motion.**—On February 21, 1897,<sup>1</sup> the Committee of the Whole House on the state of the Union were considering a bill (S. 3307) relating to the Potomac Flats Park, when Mr. Joseph W. Babcock, of Wisconsin, asked unanimous consent that general debate be closed.<sup>2</sup>

Mr. Joseph Wheeler, of Alabama, having objected, Mr. Babcock moved that the committee rise. This motion being decided in the affirmative, the committee accordingly rose; and the Speaker having resumed the chair, Mr. Henderson, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3307) and had come to no resolution thereon.

Mr. Babcock thereupon moved that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3307; and pending that motion, submitted the further motion that in Committee of the Whole House on the state of the Union debate should be limited to ten minutes.

The motion to limit debate was first agreed to, and then the question was put on the motion to go into Committee of the Whole.

On January 11, 1898,<sup>3</sup> Mr. William H. Moody, of Massachusetts, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill; and pending that moved that all debate in the Committee of the Whole House

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<sup>1</sup>Second session Fifty-fourth Congress, Record, p. 2218.

<sup>2</sup>For an account of the evolution of the practice of closing general debate in Committee of the Whole, see section 5221 of this volume.

<sup>3</sup>Second session Fifty-fifth Congress, Record, pp. 518, 519.

on the state of the Union should cease at 5 o'clock that day. On the latter motion, in accordance with a frequent practice, he demanded the previous question, thus preventing amendments to his proposition as to time, unless the House should first vote down the previous question.<sup>1</sup>

**5204. A motion to limit general debate in Committee of the Whole is not in order in the House until after such debate has begun.**—On April 8, 1884,<sup>2</sup> the House had under consideration a bill relating to the boundaries between Indian Territory and Texas. Pending a motion to go into Committee of the Whole, Mr. John H. Evins, of South Carolina, further moved that when the Committee of the Whole next resumed consideration of the bill, all general debate thereon should be limited to one hour.

Mr. Thomas B. Reed, of Maine, made the point of order that the last motion was not in order, for the reason that there had been no general debate in the Committee of the Whole on the bill.

The Speaker<sup>3</sup> held that the motion to limit general debate in the Committee of the Whole could not be made until such debate had been actually entered upon, and upon the statement of the official reporter on duty at the time that there had been no general debate, held the motion of Mr. Evins to limit debate to be not in order at this time.

**5205.** On January 27, 1852,<sup>4</sup> Mr. William H. Polk, of Tennessee, submitted the following resolution:

*Resolved,* That all debate in the Committee of the Whole House on the state of the Union on the joint resolution (No. 12) authorizing the joint committee on printing to contract with Messrs. Donelson and Armstrong for printing and binding the census shall cease in one hour after the committee shall take the same up (if the committee shall not sooner come to a conclusion upon the same); and the committee shall then proceed to vote on such amendments as may be pending, or offered to the same and shall then report it to the House, with such amendments as may have been agreed to by the committee.<sup>5</sup>

Mr. Thomas L. Clingman, of North Carolina, made the point of order that, inasmuch as the said joint resolution had not yet been considered in Committee of the Whole, it was not competent under the rule to submit a proposition to close debate on it. Mr. Clingman asserted that such had been the practice of the House in the past, and that it was supported by the wording of the rule:

The House may, at any time, by a vote of the majority of the Members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union, and also for providing for the discharge of the Committee of the Whole House and the Committee of the Whole House on the state of the Union from the further consideration of any bill referred to them, after acting without debate on all amendments pending, and that may be offered.

<sup>1</sup>In a case where the previous question had been ordered on a motion to close debate Speaker pro tempore Crisp held that the thirty minutes of debate was allowable under the rule for the previous question (first session Forty-ninth Congress, Journal, p. 1125; Record, p. 3028), but this is a highly exceptional ruling, and not in harmony with the theory of the rule in question. (See secs. 5443–5446 of this volume.)

<sup>2</sup>First session Forty-eighth Congress, Journal, p. 1010; Record, p. 2767.

<sup>3</sup>John G. Carlisle, of Kentucky, Speaker.

<sup>4</sup>First session Thirty-second Congress, Journal, pp. 267, 268; Globe, p. 403.

<sup>5</sup>This was the regular form of resolution at that time for discharging the Committee of the Whole by closing debate, under the rule quoted as part of Mr. Clingman's point of order.

The Speaker<sup>1</sup> overruled the point of order and held the resolution to be in order.

Mr. Clingman having appealed, Mr. Harry Hibbard, of New Hampshire, moved to lay the appeal on the table. On a yea and nay vote this motion was decided in the negative, yeas 76, nays 107. The question being taken on the appeal, the decision of the Chair was overruled, ayes 59, noes 96.

**5206.** On April 23, 1902,<sup>2</sup> Mr. E. Stevens Henry, of Connecticut, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the Senate amendments to the bill (H. R. 9206) relating to oleomargarine and other dairy products.

Mr. James A. Tawney, of Minnesota, rising to a parliamentary inquiry, asked if it would be in order to move that general debate close in one hour.

The Speaker<sup>3</sup> said:

Not at present; not until after some debate has taken place.

**5207. The motion in the House to limit general debate on a bill in Committee of the Whole must apply to the whole and not a part of the bill.**

**Form of motion made in the House to limit general debate in Committee of the Whole. (Footnote.)**

On July 30, 1888,<sup>4</sup> the House being in Committee of the Whole House on the state of the Union, considering the general deficiency appropriation bill, Mr. James N. Burnes, of Missouri, moved that the Committee rise. This motion having been agreed to, and the House having resumed its session, Mr. Burnes made this motion:

I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of general appropriation bills; and pending that motion I move that when the House shall again resolve itself into Committee of the Whole general debate upon that part of the bill preceding the last section be limited to forty minutes.

Mr. Richard W. Townshend, of Illinois, made the point of order that it was not in order for the House at this time to make such an order.

The Speaker<sup>5</sup> said:

The Chair has so stated. The Chair has stated that, under the rules, the House can proceed without limiting the debate, but if limited at all it must be on the entire bill. The gentleman from Illinois (Mr. Townshend) makes the point of order against the motion, and the point is sustained.<sup>6</sup>

<sup>1</sup> Linn Boyd, of Kentucky, Speaker.

<sup>2</sup> First session Fifty-seventh Congress, Record, p. 4585.

<sup>3</sup> David B. Henderson, of Iowa, Speaker.

<sup>4</sup> First session Fiftieth Congress, Record, p. 7039; Journal, p. 2507.

<sup>5</sup> John G. Carlisle, of Kentucky, Speaker.

<sup>6</sup> The hour for closing general debate is often fixed in the committee or in the House by unanimous consent. But if objection is made the following resolution is usually moved, pending the motion that the House resolve itself into Committee of the Whole:

*“Resolved, That all debate in the Committee of the Whole House on the state of the Union (or Committee of the Whole House, as the case may be) on (here insert title of bill or subject upon which it is proposed to close debate) shall cease (here insert time at which it is proposed to close debate) when its consideration is next resumed.”*

This resolution is not debatable, but the previous question is sometimes moved to prevent amendment.

**5208. After the vote has been taken on the motion to go into Committee of the Whole it is too late to offer a motion to close general debate in the Committee of the Whole.**—On February 28, 1901,<sup>1</sup> Mr. William P. Hepburn, of Iowa, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 5499) relating to the Revenue-Cutter Service.

The question having been put to the House, and the yeas and nays having been ordered and taken on it, but the result not yet having been announced by the Chair, Mr. Hepburn proposed a motion that general debate in Committee of the Whole be closed in twenty-five minutes.

Mr. James R. Mann, of Illinois, made the point of order that the motion was not in order at this time.

After debate the Speaker<sup>2</sup> held:

The Chair is of opinion that there is this difference which the gentleman from Iowa perhaps overlooks. When a motion is made to go into Committee of the Whole House, before that motion is put it has been usual to say, "Pending that, I move to close debate." But this is not that situation. The motion has been put and voted upon, and it seems to the Chair that must be announced before another motion can be made.

No one knows yet whether we are going into committee or not until the announcement is made. The House does not know whether this matter is to be considered or not, and it seems to the Chair that after having been taken, his first duty is to announce the result of that vote. On this question the yeas are 157, the nays 92, answering present 2: the yeas have it, and the motion is carried.

**5209. General debate in Committee of the Whole may not be limited on a series of bills by one motion.**—On February 7, 1899,<sup>3</sup> the House was proceeding under the following special order:

*Resolved,* That immediately after the reading of the Journal on Tuesday and Wednesday, February 7 and 8, the House proceed to consider such bills as may be indicated by the Committee on Public Buildings and Grounds, such consideration to be first had in Committee of the Whole House on the state of the Union, and the consideration of such bills in the House or in Committee of the Whole House to continue during the two days mentioned.

Mr. David H. Mercer, of Nebraska, moved that the House resolve itself into Committee of the Whole House on the state of the Union, for the purpose of considering bills reported to the House by the Committee on Public Buildings and Grounds, and pending that, moved that the general debate in the Committee of the Whole be limited to ten minutes to each bill,

Mr. Alexander M. Dockery, of Missouri, made a point of order on this motion. The Speaker<sup>4</sup> sustained the point of order.

**5210. A proposition for division of time is not in order as a part of a motion to limit general debate in Committee of the Whole.**—On January 29, 1900,<sup>5</sup> Mr. James W. Wadsworth, of New York, moved that the House resolve itself into Committee of the Whole for the further consideration of the bill (H. R. 3988) "to reorganize and improve the United States Weather Bureau," and pending that motion moved that the general debate upon the bill be concluded at

<sup>1</sup> Second session Fifty-sixth Congress, Journal, pp. 292, 293; Record, pp. 3235, 3236.

<sup>2</sup> David B. Henderson, of Iowa, Speaker.

<sup>3</sup> Third session Fifty-fifth Congress, Record, p. 1561; Journal, p. 143.

<sup>4</sup> Thomas B. Reed, of Maine, Speaker.

<sup>5</sup> First session Fifty-sixth Congress, Record, pp. 1285, 1286.

5 o'clock that evening, the time to be equally divided between those opposed to the bill and those in favor of it.

The Speaker <sup>1</sup> said:

The Chair will state for the information of the House that the question of the division of time should be arranged in Committee of the Whole and should not be coupled with this motion. \* \* \* If it were otherwise, it would deprive the Chairman of the Committee of the Whole of the right of recognition which he should have and place it in the hands of the Speaker. That matter must go untrammelled into the Committee of the Whole House on the state of the Union.<sup>2</sup>

**5211.** On March 13, 1902,<sup>3</sup> Mr. Eugene F. Loud, of California, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the Post-Office appropriation bill.

And pending that motion he further moved that general debate be closed in two hours, the time to be controlled on the one side by himself, and on the other by Mr. John A. Moon, of Tennessee.

The Speaker <sup>1</sup> said:

The gentleman from California moves that general debate in Committee of the Whole on the Post-Office appropriation bill be limited to two hours. The other part of his motion is not in order.

The several motions having been agreed to, and a question as to control of time arising in Committee of the Whole, the Chairman <sup>4</sup> said:

The Chair understood the Speaker to hold that he could not include in the motion the condition that the time was to be controlled by the gentleman from California and the gentleman from Tennessee. The Chair will take the instruction of the Committee upon the control of the time.

**5212. The House having fixed the time when general debate in Committee of the Whole shall cease, the Committee may not extend it even by unanimous consent.**—On February 22, 1853,<sup>5</sup> the House was in Committee of the Whole House on the state of the Union, considering the Indian appropriation bill.

The time for general debate, which had been fixed by the House, having expired, Mr. Volney E. Howard, of Texas, moved that the Committee rise, with a view of extending the time for closing debate. Mr. Graham N. Fitch, of Indiana, made the point that this could not be done, there having been a motion to reconsider, which was laid on the table.

The Chairman suggested that the only way in which the time could be extended would be by unanimous consent in the House.

Messrs. Volney E. Howard, of Texas, George S. Houston, of Alabama, and Robert W. Johnson, of Arkansas, expressed the opinion that the Committee of the Whole could by unanimous consent extend the time, the Committee being composed of the same Members as the House.

The Chairman <sup>6</sup> ruled that the Committee was acting in pursuance of an order of the House. The House had directed that at a certain hour debate must be closed

<sup>1</sup> David B. Henderson, of Iowa, Speaker.

<sup>2</sup> Of course by unanimous consent, which would in effect be a special order, the House might divide the time of the Committee of the Whole.

<sup>3</sup> First session Fifty-seventh Congress, Record, pp. 2737, 2738.

<sup>4</sup> Charles E. Littlefield, of Maine, Chairman.

<sup>5</sup> Second session Thirty-second Congress, Globe, pp. 784, 785.

<sup>6</sup> Thomas S. Bocock, of Virginia, Chairman.

and the action of the Committee be reported to the House. He did not know that there was any power to extend the time for closing the debate except in the House. The Chairman said that he acted in this matter not only in pursuance of previous decisions, but in accordance with his own deliberate judgment; for, while the Committee consisted of the same Members as the House of Representatives, it was a different body. The Committee could do nothing except in pursuance of the order of the House. The action taken by the House bound the Committee.

Mr. Johnson having taken an appeal, the Chairman was sustained.

**5213.** On December 10, 1897,<sup>1</sup> the House was in Committee of the Whole House on the state of the Union considering the pension appropriation bill, the House having limited general debate. As the limit was about to expire, Mr. William A. Stone, of Pennsylvania, asked unanimous consent that additional time be allowed in order that a certain Member might speak.

In declining to entertain the request the Chairman<sup>2</sup> said:

The Chair will suggest to the gentleman from Pennsylvania that after the first paragraph of the bill has been read the gentleman can take the floor, and it will be in the province of the Committee then to extend his time under the five-minute rule.

**5214.** On January 24, 1852,<sup>3</sup> the bill (H. R. 46) "providing for carrying into execution in further part the twelfth article of the treaty with Mexico," was under consideration in Committee of the Whole House on the state of the Union.

The time fixed by the House for the termination of general debate having arrived, there were several propositions that the time might be lengthened by unanimous consent.

The Chairman<sup>4</sup> said:

The Chair decides that the resolution of the House terminating debate upon this bill in the Committee of the Whole on the state of the Union, being imperative and unconditional in its terms, can not, even by unanimous consent, be disregarded.

**5215.** On June 6, 1902,<sup>5</sup> the Committee of the Whole House on the state of the Union was considering the bill (S. 3653) "for the protection of the President of the United States, and for other purposes," when Mr. Malcolm R. Patterson, of Tennessee, asked for an extension of the time of general debate.

The Chairman<sup>6</sup> said:

The Chair is obliged to rule that the House having fixed the time, it is not possible for the Committee of the Whole to extend it.

**5216.** On February 22, 1904,<sup>7</sup> the House was in Committee of the Whole House on the state of the Union for consideration of the naval appropriation bill under an order limiting general debate to five hours on the side of the majority and an equal time on the side of the minority.

The time having been used, excepting twenty minutes of the time of the majority, it was proposed to begin the reading of the bill for amendment, no Member of the majority desiring the floor.

<sup>1</sup> Second session Fifty-fifth Congress, Record, pp. 81, 95.

<sup>2</sup> Sereno E. Payne, of New York, Chairman.

<sup>3</sup> First session Thirty-second Congress, Globe, p. 384.

<sup>4</sup> George W. Jones, of Tennessee, Chairman.

<sup>5</sup> First session Fifty-seventh Congress, Record, pp. 6398, 6399.

<sup>6</sup> Charles H. Grosvenor, of Ohio, Chairman.

<sup>7</sup> Second session Fifty-eighth Congress, Record, p. 2226.

Mr. John S. Williams, of Mississippi, on the minority side, asked unanimous consent to be recognized for twenty minutes.

The Chairman<sup>1</sup> said:

The Chair is unwilling to entertain that request, the House having fixed the time—five hours on either side. The five hours of the minority having expired, if the majority do not see fit to use their time, the Chair will hold that that has expired also, and will direct the reading of the bill.

**5217. The motion to close general debate may not be made in Committee of the Whole.**—On February 28, 1901,<sup>2</sup> the House had resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 5499) relating to the Revenue-Cutter Service.

Mr. William P. Hepburn, of Iowa, moved that all general debate on the pending bill be closed after two hours.

Mr. Thaddeus M. Mahon, of Pennsylvania, made the point of order that the motion to close general debate could not be made in Committee of the Whole.

After debate the Chairman<sup>3</sup> held:

Looking to the long practice of the House, so far as it come has under the observation of the present occupant of the chair, it has been uniform to the effect that the Committee of the Whole has no power to limit debate except debate under the five-minute rule upon items of a bill.

Now, the fifth subdivision of Rule XXIII provides that “When general debate is closed by order of the House any Member shall be allowed,” etc. But there is nowhere any provision for the limitation of general debate in the Committee of the Whole House.

Now, take these two rules together, one providing by inference for closing debate in the Committee of the Whole, the other providing for the limitation of debate under the five-minute rule, it seems to the Chair there can be no doubt that the two construed together have the effect of bringing this result, that the House may decide to go into Committee of the Whole for the consideration of a bill and make a limit of time during which general debate shall proceed; but when without limitation the House goes into Committee of the Whole, the Chair is of the opinion that there is no power of limitation of general debate beyond the ordinary motions to rise, and other motions of that character. Therefore the Chair sustains the point of order.

**5218. The rule for closing general debate in Committee of the Whole applies to messages of the President as well as bills, and may be applied to a particular portion of a message.**—On December 31, 1851,<sup>4</sup> the Speaker announced as the business first in order a resolution submitted by Mr. Thomas L. Clingman, of North Carolina:

*Resolved*, That all debate in the Committee of the Whole House on the state of the Union, upon so much of the President’s message as relates to Louis Kossuth, shall cease in half an hour after the committee shall again resume its consideration (if the committee shall not sooner come to a conclusion upon the same); and the committee shall then proceed to vote on such propositions as may be pending or offered in reference to the same, and shall then report it to the House, with such propositions as may have been agreed to by the committee.<sup>5</sup>

<sup>1</sup>William P. Hepburn, of Iowa, Chairman.

<sup>2</sup>Second session Fifty-sixth Congress, Record, pp. 3236, 3237.

<sup>3</sup>Charles H. Grosvenor, of Ohio, Chairman.

<sup>4</sup>First session Thirty-second Congress, Journal, pp. 146, 147; Globe, pp. 168, 169.

<sup>5</sup>This resolution was offered to close a debate that had begun, and it has always been the practice of the House to limit general debate only after it has begun. The reason for this practice is found in the origin of the rule limiting debate. (See see. 5221 of this volume.)

Mr. Edward Stanly, of North Carolina, made the point of order that the rule closing debate did not apply to the message of the President of the United States, but only to bills, and that consequently the resolution was not in order.

The Speaker<sup>1</sup> overruled the point of order on the ground that although under a strict construction of the rule referred to nothing but bills would seem to be embraced, yet the uniform practice of the House had been to include under it all subjects referred to the Committee of the Whole. In confirmation that such had been the practice, he referred to the action of the House upon the President's message during the last Congress.

In this decision the House acquiesced.

Mr. George W. Jones, of Tennessee, made the point of order that the resolution was not in order, on the ground that it was not competent for the House to discharge the Committee of the Whole from a part of the message and not the whole.

The Speaker decided that inasmuch as the President's message<sup>2</sup> contained allusions to various and distinct subjects upon which the committee might act and report separately, it was manifestly in the power of the House to direct that all debate be closed upon any one of the subjects therein alluded to.

On appeal by Mr. Jones this decision was sustained by a vote of 92 to 64.

**5219. General debate in Committee of the Whole is not necessarily closed by failure of those entitled to the floor to proceed in debate.**—On December 15, 1904,<sup>3</sup> the Committee of the Whole House on the state of the Union was considering a bill (H. R. 4831) relating to the improvement of currency conditions, the arrangement made in the House as to general debate being that it should be equally divided as to time, Mr. Ebenezer J. Hill, of Connecticut, having control of the time on the majority side, and Mr. Charles L. Bartlett, of Georgia, the time on the minority side.

After the majority had consumed about an hour of time, and the minority about twenty minutes, Mr. John S. Williams, of Mississippi, who was in charge of the minority time in the absence of Mr. Bartlett, announced that there was no further demand for time on his side, and suggested that the general debate should close.

Thereupon Mr. Hill proposed to yield further time on the minority side.

Thereupon Mr. Williams objected, saying:

But the gentleman from Connecticut can not yield to anybody now. The agreement in the House was that the time should be divided equally between those in advocacy of the bill and those in opposition to the bill. Gentleman on his side have already consumed more than an hour of time, while on this side we have consumed about twenty minutes.

Mr. Hill having asked for a decision, the Chairman<sup>4</sup> said:

The time on that side of the House, represented by the gentleman from Mississippi, could be made equal, of course, in general debate; but general debate can not be closed by a refusal of one side of the

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<sup>1</sup> Linn Boyd, of Kentucky, Speaker.

<sup>2</sup> It is not now the custom of the House to consider the President's annual message in Committee of the Whole. That committee distributes the message to the standing committees.

<sup>3</sup> Third session Fifty-eighth Congress. Record, p. 321.

<sup>4</sup> John Dalzell, of Pennsylvania, Chairman.

House to go on and debate the question. \* \* \* The Chair thinks that under an agreement, such as was had in this case, it is not in the power of one side to close debate by refusing to go on.

Thereupon Mr. Williams moved that general debate be closed.

The Chairman said:

The gentleman from Mississippi appreciates the fact that general debate can not be closed by order of the Committee of the Whole; it can only be closed in the House.

**5220. The time occupied in reading a bill in Committee of the Whole does not come out of the time allowed for general debate.**—On February 24, 1875,<sup>1</sup> the House was in Committee of the Whole House on the state of the Union for the consideration of H. R. 4729, a bill making appropriations for the sundry civil expenses of the Government, and for other purposes.

Objection having been made to the request of Mr. James A. Garfield that the first reading of the bill be dispensed with, Mr. Garfield asked of the Chair whether or not the time occupied in reading the bill would come out of the time allowed for general debate.

The Chairman,<sup>2</sup> after considering the question, held that the reading of the bill would not come out of the time allowed for general debate.

**5221. The rule governing the five-minute debate on amendments in Committee of the Whole.**

**The rules contemplate that general debate in Committee of the Whole shall be closed by order of the House before amendments may be offered.**

**An amendment once offered in Committee of the Whole may not be withdrawn.**

**Present form and history of section 5 of Rule XXIII.**

Section 5 of Rule XXIII provides:

When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the Committee.

This form is substantially that of the revision of 1880. Previous to that time the following rule, which dated from April 7, 1789,<sup>3</sup> had been in existence:

Upon bills committed to a Committee of the Whole House, the bill shall be first read throughout by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered. The body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk, on a separate paper, as the same shall be agreed to by the committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses before a question to engross it be taken.

The portions of this rule relating to consideration in Committee of the Whole are continued practically in present practice; but the consideration by paragraphs does not now exist in the practice of the House itself.

<sup>1</sup> Second session Forty-third Congress, Record, p. 1699.

<sup>2</sup> Mr. George G. Hoskins, of New York, Chairman.

<sup>3</sup> First session First Congress, Journal, p. 11.

Prior to 1841 there was no limit to the time which a member might occupy when once in possession of the floor. The hour rule<sup>1</sup> had not been adopted, and in Committee of the Whole, where the previous question did not apply, and where a member might speak an unlimited time, whether in general debate or on an amendment, the problem of getting through with bills seems to have become very important and urgent. In 1840 the bill "to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue" was in Committee of the Whole several weeks, and was rescued only by the suspension of the rules by a two-thirds vote and the adoption of a special order taking the bill from the Committee of the Whole and making it in order at once in the House.<sup>2</sup>

In 1841 the Whig party came into power in the House, but did not have the two-thirds majority which would be necessary to take a bill from Committee of the Whole in this manner. On June 22, 1841, the House sent to the Committee of the Whole a bill "to appropriate the proceeds of the sale of public lands and to grant preemption rights." This bill was still being debated in Committee on July 6, when the Committee on Rules, after much opposition,<sup>3</sup> secured the adoption of a rule providing that by the vote of the majority (instead of two-thirds) the House might suspend the rules for the purpose of discharging the committee of the Whole from the consideration of any bill referred to them after acting without debate upon all amendments pending and that might be offered. Immediately upon the adoption of this rule, and under authority of it, a resolution was agreed to closing the general debate on the public land bill at 7 p. m. and directing that the bill be reported to the House after pending amendments were voted on. This taking of the bill from the Committee of the Whole was marked by high party excitement. To the reporter of debates it seemed as if "chaos were come again," and a thunderstorm of unusual violence without seemed a fitting accompaniment to the turmoil within.<sup>4</sup> The hour rule of debate was also adopted for the first time during the excitement of this evening.

The method of closing general debate in Committee of the Whole by a resolution adopted by a majority in the House was continued at the next session of Congress,<sup>5</sup> since business could not be transacted without it.

On June 13, 1842,<sup>6</sup> a rule was proposed to permit in Committee of the Whole a motion to close debate, but it was laid on the table, yeas 102, nays 91. And thereafter the rule of 1841 for discharging the Committee of the Whole, after acting without debate on all amendments, continued in force, but was used for the real purpose of closing general debate, since after that was closed and the bill had been amended, an order to report it would follow as a matter of course. In the revision of the rules in 1880 the rule of 1841 was dropped, except for the reference in the words "when general debate is closed by order of the House," but the practice of the House has continued as before, the motion to close general debate being made pending the motion to go into Committee of the Whole.

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<sup>1</sup> See section 4978 of this volume.

<sup>2</sup> First session Twenty-sixth Congress, Journal, pp. 1156-1158; also remarks of Mr. Medill, first session Twenty-seventh Congress, Globe, p. 152.

<sup>3</sup> First session Twenty-seventh Congress, Globe, p. 132.

<sup>4</sup> First session Twenty-seventh Congress, Globe, p. 155.

<sup>5</sup> Second session Twenty-seventh Congress, Globe, pp. 126, 257; Journal, p. 560.

<sup>6</sup> Second session Twenty-seventh Congress, Journal, p. 949; Globe, p. 619.

The rule of 1841, however, was only the beginning of the present system of guiding business in Committee of the Whole. There was found to be great inconvenience in the requirement that amendments should be voted on without debate after the closing of general debate, and on December 18, 1847, a rule was adopted "that where debate is closed by order of the House any Member shall be allowed in Committee five minutes to explain any amendment he may offer."<sup>1</sup> In a few years a practice grew up whereby a Member would offer an amendment, debate five minutes, and withdraw it, thus allowing another Member to offer another amendment and repeat the performance. While the five-minute rule was generally in high favor, this practice produced much delay and irrelevancy. Therefore, on August 14, 1850,<sup>2</sup> the House added to the words "any Member shall be allowed in Committee five minutes to explain any amendment he may offer," the following provision:

After which any Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the Committee.

This plan of permitting five minutes of debate on an amendment had been tried temporarily during consideration of an appropriation bill on February 20, 1845,<sup>3</sup> at the suggestion of Mr. Charles J. Ingersoll, of Pennsylvania.

The provision that an amendment once offered might not be withdrawn did not prevent the offering of amendments for purposes of obstructive debate, and on March 22, 1854,<sup>4</sup> the Committee on Rules reported a plan for closing debate on a paragraph or section; but it was not adopted.

The object of this rule was patent. The famous Kansas-Nebraska bill was pending, and the minority party were prepared to obstruct it indefinitely by five-minute debate, so that it might never get out of Committee of the Whole. They were engaged in carrying this purpose into effect when on May 22, 1854,<sup>5</sup> Mr. Alexander H. Stephens, of Georgia, moved to strike out the enacting words of the bill, saying that if the committee should agree to the motion the action would be reported to the House and the question would be on agreeing to the report. If the friends of the bill should vote to nonconcur in the report, they would then have the bill before the House, to do with as the majority might determine. Although this procedure was denounced, especially by Mr. Israel Washburn, Jr., of Maine, as an outrageous trampling on the rights of the minority, the Chairman<sup>6</sup> sustained it, and the bill was passed.

After this it became a common practice to take bills from the Committee of the Whole in this way until the revision of 1860, when Mr. Washburn, in reporting from the Committee on Rules, presented a plan, which is now section 6 of Rule XXIII,<sup>7</sup>

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<sup>1</sup> First session Thirtieth Congress, *Globe*, p. 47.

<sup>2</sup> First session Thirty-first Congress, *Globe*, pp. 1566–1575; *Journal*, p. 1265.

<sup>3</sup> Second session Twenty-eighth Congress, *Journal*, pp. 422–424; *Globe*, p. 317.

<sup>4</sup> First session Thirty-third Congress, *Journal*, pp. 550, 551; *Globe*, pp. 715–717.

<sup>5</sup> First session Thirty-third Congress, *Globe*, p. 1241.

<sup>6</sup> Edson B. Olds, of Ohio, Chairman.

<sup>7</sup> See section 5224 of this volume.

for modifying the rule relating to the enacting clause,<sup>1</sup> so as to prevent the practice, and also this additional provision for the five-minute rule:

*Provided further*, That the House may, at any time after five minutes' debate has taken place upon a proposed amendment or any section or paragraph of the bill, close the debate upon such section or paragraph, or, at their election, upon the pending amendments only.

This provision was not originally in this form, the words "or paragraphs" having been inserted on recommendation of Mr. John S. Millson, of Virginia, who said he did not propose to interfere with the right of the House to close debate upon the whole section, but thought it wise to have the power apply also to the paragraphs.<sup>2</sup>

The revision of 1880<sup>3</sup> left the provisions of the rule in its present form, except that in 1885<sup>4</sup> the clause prohibiting debate on the motion to close debate was inserted.

**5222. A Member who has occupied five minutes on a pro forma amendment, may not, by making another pro forma amendment, lengthen his time.**—On March 22, 1904,<sup>5</sup> while the post-office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, Mr. Thomas S. Butler, of Pennsylvania, was recognized in debate under the five-minute rule, having made a pro forma amendment to strike out the last word of the pending matter.

At the expiration of his five minutes, Mr. Butler proposed another pro forma amendment in order that he might continue for five minutes more.

The Chairman<sup>6</sup> said:

That motion is hardly in order. The Chair is of the opinion that when a gentleman is addressing the committee and his time has expired he is not entitled to offer a pro forma amendment and hold the floor for five minutes more. The motion would not be in order.

**5223. During the five-minute debate recognitions are not necessarily alternated between the political divisions of the House, but are governed by conditions relating to the pending question.**—On June 26, 1902,<sup>7</sup> the Committee of the Whole House on the state of the Union was considering under the five-minute rule the bill (S. 2295) temporarily to provide for the affairs of civil government in the Philippine Islands, when Mr. John W. Gaines, of Tennessee, raised a question as to recognitions, as between the majority and minority sides of the House.

The Chairman<sup>8</sup> said:

The Chair will state that on an amendment there is of course allowed five minutes debate on each side, and no more, except by unanimous consent. The Chair has followed this rule—that when an amendment is offered, no matter on which side, it is of course an attack upon the bill which is being

<sup>1</sup> See section 5326 of this volume.

<sup>2</sup> First session Thirty-sixth Congress, Globe, p. 1188.

<sup>3</sup> Second session Forty-sixth Congress, Record, p. 206.

<sup>4</sup> First session Forty-ninth Congress, Record, pp. 3126, 3127.

<sup>5</sup> Second session Fifty-eighth Congress, Record, p. 3532.

<sup>6</sup> Edgar D. Crumpacker, of Indiana, Chairman.

<sup>7</sup> First session Fifty-seventh Congress, Record, p. 7446.

<sup>8</sup> Frederick H. Gillett, of Massachusetts, Chairman.

defended by the committee; and the Chair therefore has held that it is always but fair—and the Chair thinks the committee will agree with him—that when the bill is attacked, no matter upon which side, a member of the committee should be next recognized to defend the bill. \* \* \* That makes no difference upon which side the time is occupied.

**5224. The Committee of the Whole may, after the five-minute debate has begun, close debate on the section, paragraph, or pending amendments; but this does not preclude further amendment.**

**Present form and history of section 6 of Rule XXIII.**

Section 6 of Rule XXIII provides:

The committee may, by the vote of a majority of the Members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate.

This rule relates to the same subject as section 5 of Rule XXXIII, and its history is the same.<sup>1</sup>

**5225. A motion to close debate under the five-minute rule is not in order until such debate has begun.**—On June 13, 1902,<sup>2</sup> the Committee of the Whole House on the state of the Union, under the five-minute rule, was considering the bill (S. 3057) for the reclamation of arid lands by irrigation, when, a paragraph having been read, with an amendment proposed by the committee, Mr. John F. Shafroth, of Colorado, moved that all debate on the paragraph and amendments close in ten minutes.

The Chairman<sup>3</sup> said:

The Chair will remind the gentleman from Colorado [Mr. Shafroth] that the motion to close debate in the committee can not be made until the debate has commenced.

**5226. The five-minute debate may be closed after one speech of five minutes.**—On December 18, 1900,<sup>4</sup> the bill (S. 1929) to provide for eliminating certain grade crossings in the city of Washington, was under consideration in Committee of the Whole House on the state of the Union, under the five-minute rule, and Mr. John F. Fitzgerald had addressed the committee for five minutes on the pending amendment,

Thereupon Mr. Joseph W. Babcock, of Wisconsin, moved that debate on the amendment and amendments thereto close in one minute.

Mr. James D. Richardson, of Tennessee, made the point of order that debate could not be closed until the time allowed by the rules—five minutes for and five against the proposition—had expired.

After debate the Chairman<sup>5</sup> said:

The Chair is very clearly of the opinion that by section 5,<sup>6</sup> five minutes' debate is allowed for an amendment proposed and five minutes against that amendment and then the debate closes itself with—

<sup>1</sup> See section 5221.

<sup>2</sup> First session Fifty-seventh Congress, Record, p. 6745.

<sup>3</sup> James A. Tawney, of Minnesota, Chairman.

<sup>4</sup> Second session Fifty-sixth Congress, Record, pp. 409, 410.

<sup>5</sup> William H. Moody, of Massachusetts, Chairman.

<sup>6</sup> Of Rule XXIII. (See sec. 5221.)

out any motion. The sixth paragraph, which was adopted ten years later than the one just referred to, provided for closing debate at any time after it shall have begun. It would have been entirely unnecessary if it had been limited to the condition described in paragraph 5, because the debate then is closed without any motion, or upon the interposition of the point of order by any gentleman on the floor. The Chair therefore rules that the motion of the gentleman from Wisconsin is in order, that debate upon this amendment be closed in one minute.

**5227. The motion to close the five-minute debate, while not debatable, is amendable.**—On June 13, 1902,<sup>1</sup> the Committee of the Whole House on the state of the Union was considering the bill (S. 3057) for the reclamation of arid lands by irrigation, when, in the course of the debate under the five-minute rule, a motion was made to close all debate on the paragraph and pending amendment. To this amendment a motion was made and entertained to amend by fixing the time for closing in ten minutes.

Later, during consideration of the same bill, a similar situation arose, the Chairman<sup>2</sup> stating the question as follows:

The Chair will state the question. The gentleman from Wyoming moved that all debate on the paragraph and pending amendments thereto close in ten minutes, and to that the gentleman from Colorado [Mr. Shafroth] moved an amendment that all debate close in five minutes, and then the gentleman from Alabama [Mr. Underwood] moved a substitute to close debate at once. The question is on the amendment offered by the gentleman from Colorado to perfect the original motion by the gentleman from Wyoming that all debate close in five minutes on the paragraph and the amendments thereto.

Mr. James M. Robinson, of Indiana, rising to a parliamentary inquiry, asked if the motion was debatable.

The Chairman replied that it was not.

**5228. The closing of debate on the last section of a bill considered under the five-minute rule does not preclude debate on a substitute for the whole text of the bill.**—On June 13, 1902,<sup>3</sup> the Committee of the Whole House on the state of the Union was considering the bill (S. 3057) for the reclamation of arid lands by irrigation, when the last section was read, debate was limited on the section and amendments, and the time fixed for the limit of debate expired.

Thereupon Mr. James M. Robinson, of Indiana, proposed an amendment in the nature of a substitute for the whole text of the bill and was proceeding to debate.

A question being raised, the Chairman<sup>2</sup> at first held that debate was not in order; but later said:

The Chair was under the impression that this was offered as an amendment to the last section of the bill, and therefore that debate was not in order. It was offered as a substitute, and debate is in order. The motion to close debate can not be entertained until debate has begun. The Chair recognizes the gentleman from Indiana [Mr. Robinson].

**5229. The right to limit debate on the pending section of a bill pending in the Committee of the Whole under the five-minute rule may be exercised by the House as well as by the Committee of the Whole.**—On October 25, 1893,<sup>4</sup> Mr. Thomas C. McRae, of Arkansas, moved that the House

<sup>1</sup>First session Fifty-seventh Congress, Record, p. 6744.

<sup>2</sup>James A. Tawney, of Minnesota, Chairman.

<sup>3</sup>First session Fifty-seventh Congress, Record, p. 6777.

<sup>4</sup>First session Fifty-third Congress, Journal, p. 154.

resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering bill (H. R. 119) to protect forest reservations, and pending this Mr. McRae moved that debate on the pending section of the bill be limited to five minutes.

Mr. Sereno E. Payne, of New York, moved to amend the latter motion by substituting thirty minutes for five minutes.

Mr. Albert J. Hopkins, of Illinois, moved to amend the amendment by striking out thirty and inserting forty-five.

Mr. William M. Springer, of Illinois, made the point of order that under clause 6 of Rule XXIII, to wit: "The committee may at any time," etc., "close debate," the House having thus conferred this power on the Committee of the Whole could not itself continue to exercise that power.

The Speaker<sup>1</sup> overruled the point of order, holding that the rule did not confer upon the committee the exclusive right to limit debate on matters pending before it, and did not take away from the House its power in the premises.<sup>2</sup>

**5230. An exceptional instance wherein the House closed the five-minute debate on a section of a bill in Committee of the Whole before all of the section had been read for amendment.**—On February 12, 1885,<sup>3</sup> Mr. Albert S. Willis, of Kentucky, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of taking up the river and harbor appropriation bill, and pending that motion he moved that all debate on the pending section and amendments thereto be limited to one hour and a half.<sup>4</sup>

As it appeared from the debate on the point of order which subsequently arose, one-half of the section had been read and debated by paragraphs under the five-minute rule.

When the motion of Mr. Willis had been made, Mr. Thomas B. Reed, of Maine, made the point of order that under the rules of the House debate could not be limited on the section. He admitted that the framers of the rule seemed to have had in mind that the House should have the power to close debate on either the section or the paragraph;<sup>5</sup> and he recalled also that the question had been raised during the discussion on the tariff bill of 1883;<sup>6</sup> but the universal practice of the House for many years had been that debate could not be closed on provisions of a bill that had not been read. Half the paragraphs in the section had been read and debated, but the remainder had not been.

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<sup>1</sup> Charles F. Crisp, of Georgia, Speaker.

<sup>2</sup> Section 6 of Rule XXIII (see sec. 5224 of this volume) is now in the same form as at the time of this ruling. November 2, 1893, the rule was amended so as to give in express terms the "House or the committee" power to close the five-minute debate. That change was not retained after the Fifty-third Congress.

<sup>3</sup> Second session Forty-eighth Congress, Record, pp. 1604–1612.

<sup>4</sup> This motion is not often made in this way in the recent practice of the House. Motions to close general debate in the Committee of the Whole are so made, but after general debate has ceased and the five-minute debate for amendments has begun the committee and not the House generally regulates the closing of debate, but not necessarily so.

<sup>5</sup> See remarks of Messrs. Washburn and Millson on this point during revision of rules in Thirty-sixth Congress. (Globe, March 15 and 16, 1860.) Also see Record, second session Forty-eighth Congress, pp. 1609, 1611.

<sup>6</sup> For this debate see Record for February 17, 1883.

The Speaker pro tempore <sup>1</sup> ruled as follows:

The Chair will state the point of order raised by the gentleman from Maine; and the argument submitted by him would in the opinion of the Chair be very well directed to a general appropriation or revenue bill. The river and harbor bill has been held more than once to be neither a general appropriation bill nor a revenue bill. The debate to which the gentleman alludes affecting the tariff bill, in the judgment of the Chair, does not apply in this case. If this were a general appropriation or a revenue bill the Chair would have no doubt as to the correctness of the views of the gentleman from Maine, but as a river and harbor bill has never been held to be either one or the other, the Chair does not think the point of order is well taken. The Chair will ask the Clerk to read the sixth clause of Rule XXIII.

"The House may, by the vote of a majority of the Members present, at any time after five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only; but this shall not preclude further amendment, to be decided without debate."

The Chair is not disposed to bar the House of its right to debate. \* \* \* It is within the power of the House to continue debate upon this section, or the paragraph, as long as it pleases; but under the clause of the rule read by the Clerk, this being neither a general appropriation nor a revenue bill, it is clear to the mind of the present occupant of the chair that it is competent for a majority of the Members here present to limit debate upon the pending section. The Chair therefore overrules the point of order made by the gentleman from Maine [Mr. Reed].

Upon an appeal, which was debated at length,<sup>2</sup> the Chair was sustained, the appeal being laid on the table by a vote of 121 yeas to 103 nays.<sup>3</sup>

**5231. A motion is not in order in the House to close debate on a paragraph of a bill in Committee of the Whole until such debate has begun.**— On May 27, 1886,<sup>4</sup> Mr. William H. Hatch, of Missouri, moved that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of bills raising revenue.

Pending this, Mr. Hatch moved that when the House again resumes in said committee the further consideration of the bill of the House defining butter, etc., all debate on section 3 and amendments thereto be limited to ten minutes.<sup>5</sup>

Mr. Nathaniel J. Hammond, of Georgia, made the point of order that the motion of Mr. Hatch to limit debate on the pending section was not in order, for the reason that it contained three distinct paragraphs, and that debate could not be closed on a paragraph not reached.

The Speaker<sup>6</sup> sustained the point of order on the ground stated, and held that under clause 6 of Rule XXIII debate could not be closed on a paragraph until debate has actually begun upon it.

<sup>1</sup> Richard P. Bland, of Missouri, Speaker pro tempore.

<sup>2</sup> Mr. J. Warren Keifer, of Ohio, sustained the ruling, arguing that it was the intention of the framers of the rule to allow the House to close debate either on sections or paragraphs, (Second session Forty-eighth Congress, Record, p. 1609.)

<sup>3</sup> For other rulings that river and harbor bill is not a general appropriation bill see sections 3897–3903 of Volume IV of this work.

<sup>4</sup> First session Forty-ninth Congress, Journal, p. 1736; Record, pp. 5004, 5005.

<sup>5</sup> It is unusual to move in the House to close debate on a paragraph (which is to be distinguished from general debate) of a bill under consideration in Committee of the Whole, because a rule provides that such a motion maybe made in Committee of the Whole. (See sec. 5224 of this volume.)

<sup>6</sup> John G. Carlisle, of Kentucky, Speaker.

The record of debate gives the statement of the Speaker in full:

The Chair finds on examination of the Record that when the reading of the first paragraph of the third section had been concluded in Committee of the Whole House on the state of the Union the gentleman from Georgia [Mr. Hammond] arose for the purpose of arresting the further reading; but the Chairman of the Committee of the Whole House on the state of the Union thereupon announced that the entire section would be read, but amendments would be received to the paragraph. The Chair thinks, inasmuch as every bill must consist of one or more sections—appropriation bills, for instance, containing in a single section 100 or more paragraphs—the House can not close debate on a paragraph till debate has begun upon it.

**5232. In the absence of a rule by the House itself, the Committee of the Whole may by unanimous consent permit general debate during consideration of the bill for amendment.**—On January 20, 1906,<sup>1</sup> the urgent deficiency appropriation bill was under consideration in Committee of the Whole House on the state of the Union, general debate having been closed and the reading of the bill for amendment under the five-minute rule having proceeded. An amendment having been offered to appropriate for the transportation of silver coin, Mr. J. Warren Keifer, of Ohio, asked unanimous consent that an hour be given to discussion of the amendment, to be divided evenly between the two sides.

Mr. James A. Tawney, of Minnesota, rising to a parliamentary inquiry, asked:

Mr. Chairman, is it competent in the Committee of the Whole to provide by unanimous consent for general debate on any proposition? It would be, undoubtedly, competent for the Committee of the Whole to give to the gentleman from Ohio as much time as that committee may desire to give.

The Chairman<sup>2</sup> said:

In the absence of the mandate made by the House before going into the Committee of the Whole, it is competent for the committee to make such a rule as the gentleman now asks to have made by unanimous consent.

**5233. It is the rule, well established in the practice of the House for many years, that the Member need not confine himself to the subject during general debate in the Committee of the Whole House on the state of the Union.**—On April 18, 1840,<sup>3</sup> the House was in Committee of the Whole on the state of the Union. Mr. John B. Weller, of Ohio, being entitled to the floor on the bill pending, which was the civil and diplomatic appropriation bill, proceeded to discuss the subject of banks, when Mr. Horace Everett, of Vermont, rose to a point of order, and asked whether it was proper for the gentleman to discuss the subtreasury bill.

The Chairman<sup>4</sup> said that, although great latitude had been allowed on this bill, he was compelled to decide that the gentleman from Ohio [Mr. Weller] was not in order.

Mr. Caleb Cushing, of Massachusetts, said that if this latitude of debate, which was in violation of the rules of the House, was to proceed, he wanted to talk on the South American and China trade. Mr. John Reed, of Massachusetts, said that he had never known such latitude to be allowed. He had proposed on a previous occa-

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<sup>1</sup>First session Fifty-ninth Congress, Record, p. 1327.

<sup>2</sup>James S. Sherman, of New York, Chairman.

<sup>3</sup>First session Twenty-sixth Congress, Globe, pp. 338, 340, 360.

<sup>4</sup>Zadoc Casey, of Illinois, Chairman.

sion that all such discussion should take place on the President's message. As the House had refused, he hoped that full latitude would be permitted.

On the next day Mr. Everett is reported to have addressed the House at considerable length on the subject, adverting to the change in the practice of the House as to general debate on the affairs of the Union, which used always to take place on a reference of the President's message, but was now irregularly indulged in on other bills. He laid the blame of the discursive character of the debate on the Administration side of the House, which first began it, but considered the debate, though not strictly regular, very valuable and important.<sup>1</sup>

On May 8, 1826,<sup>2</sup> during debate on the Creek treaty in the Committee of the Whole House on the state of the Union, Mr. John Forsyth, of Georgia, was called to order for not confining his remarks to the subject before the House.

The Chairman<sup>3</sup> declared Mr. Forsyth out of order, which decision was sustained.

**5234.** On February 23, 1849,<sup>4</sup> Mr. Samuel F. Vinton, of Ohio, moved that the House resolve itself into the Committee of the Whole House on the state of the Union, and this was done. When in committee Mr. Vinton moved to take up the Post-Office appropriation bill. The bill was read through, and then, after two amendments had been proposed and ruled out of order, Mr. Thomas J. Turner, of Illinois, moved to strike out the first section, and began to speak on the subject of the Territories and slavery. Mr. Frederick A. Tallmadge, of New York, made the point of order that such discussion was not in order on a Post-Office bill.

The Chairman<sup>5</sup> held that, according to the universal usage, when the House was in Committee of the Whole House on the state of the Union, all manner of matter was debated.

An appeal was taken, and the Chair was sustained.<sup>6</sup>

On the next day a resolution was adopted in the House that debate on the Post-Office bill should cease in Committee of the Whole House on the state of the Union in two hours, at the end of which time amendments should be voted on. When the committee began its session the debate on the slavery question was resumed. At its close the amendments were offered.<sup>7</sup>

**5235.** On July 30, 1850,<sup>8</sup> the House went into Committee of the Whole House on the state of the Union, and when in committee Mr. Thomas H. Bayly, of Virginia,

<sup>1</sup>From 1860 to 1880 the House had a rule whereby, when an appropriation bill was made a special order in Committee of the Whole, general debate on other subjects was not allowed. (See *Globe*, p. 1210, first session Thirty-sixth Congress).

<sup>2</sup>First session Nineteenth Congress, *Debates*, p. 2613.

<sup>3</sup>Lewis Condict, of New Jersey, Chairman.

<sup>4</sup>Second session Thirtieth Congress, *Globe*, pp. 587, 592.

<sup>5</sup>Hugh White, of New York, Chairman.

<sup>6</sup>On May 30, 1848 (first session Thirtieth Congress, *Globe*, pp. 793, 797), this question had been debated very fully, and Chairman Robert Toombs, of Georgia, had held that the rules of the House applied, and that debate must be confined to the subject. He admitted that great latitude had been permitted, but did not consider himself bound by previous decisions. After long debate the decision was sustained, ayes 74, noes 72.

<sup>7</sup>This was before the system of five-minute debate had been perfected. (See sec. 5221 of this volume.)

<sup>8</sup>First session Thirty-first Congress, *Globe*, p. 1475.

moved to lay aside the California message with a view of taking up the pension appropriation bill. On a vote by tellers the message was laid aside. Then it was voted to take up the pension bill.

After it had been read through and a proposition had been made to consider it by sections, Mr. Harvey Putnam, of New York, got the floor and proceeded to discuss the admission of California and slavery in the Territories.

Mr. Alexander Evans, of Maryland, made the point that his remarks were irrelevant. The bill before the House was a pension bill, and the gentleman was discussing the slavery question.

The Chairman<sup>1</sup> decided that under the uniform practice a wide range of debate had always been allowed in Committee of the Whole on the state of the Union, and that the Chair therefore did not feel authorized to declare the remarks of the gentleman from New York out of order.

On appeal the decision was sustained.

**5236.** On July 20, 1852,<sup>2</sup> the House was in Committee of the Whole House on the state of the Union, and Mr. George S. Houston, of Alabama, moved to take up the Military Academy bill. Then Mr. Houston asked that there be no general debate, as he wished soon to call up another bill. The bill was then read through by the Clerk.

Then Mr. Edson B. Olds, of Ohio, arose and said he proposed to make a political speech. After he had begun Mr. Edward Stanly, of North Carolina, arose to a point of order.

The Chairman<sup>3</sup> said he was of the opinion that, in accordance with the general practice of the House, general discussion might be permitted to go on.

This decision was sustained, 94 yeas to 37 nays.<sup>4</sup>

Then, after further debate, the bill was read for amendments.

**5237.** On January 10, 1906,<sup>5</sup> the Philippine tariff bill (H. R. 3) was under consideration in Committee of the Whole House on the state of the Union, general debate not having yet been concluded.

Mr. Morris Sheppard, of Texas, having the floor, proceeded to discuss an incident which had occurred recently at the White House, and which had no connection with the tariff bill.

Mr. Sereno E. Payne, of New York, made the point of order that he was not confining himself to the subject before the committee.

The Chairman<sup>6</sup> held:

The Chair is of the opinion, and finds himself sustained by former rulings, that in Committee of the Whole House a Member must confine himself to the subject, but it has been universally held that in Committee of the Whole House on the state of the Union a Member need not confine himself to the bill

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<sup>1</sup> Linn Boyd, of Kentucky, Chairman.

<sup>2</sup> First session Thirty-second Congress, Globe, p. 1856.

<sup>3</sup> John S. Phelps, of Missouri, Chairman.

<sup>4</sup> On June 1, 1880 (second session Forty-sixth Congress, Record, p. 4019), in Committee of the Whole House on the state of the Union, Chairman W. C. Whitthorne, of Tennessee, gave a full review of the principle that the member is not confined to the subject of the pending bill in general debate in Committee of the Whole House on the state of the Union.

<sup>5</sup> First session Fifty-ninth Congress, Record, p. 932.

<sup>6</sup> Marlin E. Olmsted, of Pennsylvania, Chairman.

or subject under debate. \* \* \* The Chair will add that, as may be found in paragraph 885 of the Parliamentary Precedents of the House, on February 23, 1849, the question was squarely before the House in Committee of the Whole House on the state of the Union, and the Chairman, Mr. Hugh White, of New York, "held that, according to the universal usage, when the House was in Committee of the Whole House on the state of the Union all manner of matter was debated." An appeal was taken and the Chair was sustained. There has never been a contrary ruling from that time until the present day. [Applause on the Democratic side.]

The Chair finds that according to paragraph 888, the House then being in Committee of the Whole House, not on the state of the Union, the gentleman from New York [Mr. Payne] made a ruling that in that committee Members were confined to a discussion of the pending matter. It is, of course, so held in the House; but in Committee of the Whole House on the state of the Union, in general debate, under the unbroken precedents of the last fifty years or more, the ruling has been uniform that all manner of matter may be debated. Of course there are other ways in which a gentleman having the floor may violate rules and be out of order, but the Chair is unable to sustain the point as to germaneness. The point would be good in Committee of the Whole, but not in Committee of the Whole House on the state of the Union while general debate is in progress.

**5238.** On February 15, 1906,<sup>1</sup> during general debate in Committee of the Whole House on the state of the Union on the bill (H. R. 345) to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof, Mr. Sereno E. Payne, of New York, having the floor, proceeded to debate a question other than that involved in the pending bill.

Mr. Augustus P. Gardner, of Massachusetts, raised the question of order that the gentleman from New York was not confining himself to the subject-matter of the bill.

The Chairman<sup>2</sup> said:

The Chair will state that we are in Committee of the Whole House [on the state of the Union] and the gentleman is not bound to confine himself to the subject-matter of the bill.

**5239. In general debate in Committee of the Whole House the Member must confine himself to the subject.**

**Instance wherein the Chair gave a casting vote in case of a tie on an appeal from his decision.**

On March 4, 1898,<sup>3</sup> the House was in Committee of the Whole House,<sup>4</sup> considering the bill (H. R. 285) for the relief of David D. Smith.

Upon this bill, during general debate, Mr. Levin I. Handy, of Delaware, proceeded to make general remarks on the condition of the United States Treasury.

Mr. Henry R. Gibson, of Tennessee, made the point of order that the remarks of the gentleman from Delaware were not addressed to the question before the committee.

The Chairman<sup>5</sup> sustained the point of order.

From this decision Mr. Richard P. Bland, of Missouri, appealed. The vote being taken by tellers on the question, "Shall the decision of the Chair stand as the judgment of the committee?" there were 91 ayes and 91 noes.

<sup>1</sup> First session Fifty-ninth Congress, Record, p. 2617.

<sup>2</sup> John A. Sterling, of Illinois, Chairman.

<sup>3</sup> Second session Fifty-fifth Congress, Record, pp. 2497-2500.

<sup>4</sup> This should be distinguished from Committee of the Whole House on the state of the Union, referred to in decisions in sections 5233, etc. (For distinction between the two committees see sec. 4705 of Vol. IV of this work.)

<sup>5</sup> Sereno E. Payne, of New York, Chairman.

The Chairman voted in the affirmative and announced that the decision was sustained.<sup>1</sup>

**5240. In debate under the five-minute rule<sup>2</sup> the Member must confine himself to the subject.**—On August 17, 1850,<sup>3</sup> the House being in Committee of the Whole, and a general appropriation bill being under consideration, an amendment was offered allowing Members \$45 for stationery. Mr. Thomas H. Bayly, of Virginia (for the purpose of making a remark), moved to amend the amendment by making the sum \$9.

As Mr. Bayly began to speak the Chairman<sup>4</sup> interposed, and stated that the question was now on the gentleman's amendment to the amendment, and the rule required the gentleman to confine his remarks to the amendment to the amendment.

**5241.** On June 13, 1850,<sup>5</sup> during the consideration of the message transmitting the constitution of California, in Committee of the Whole House on the state of the Union, Mr. John Wentworth, of Illinois, had the floor in debate, when Mr. George Ashmun, of Massachusetts, made the point of order that during the five-minute debate Members should confine themselves to the subject of the amendments presented.

The Chairman<sup>6</sup> said:

This rule is stringent in its provisions, but in five minutes it would be extremely difficult for the Chair to determine what use the gentleman from Illinois might make of his remarks, which he has submitted. In reference to the Missouri Compromise and the annexation of Texas the Chair did not feel it to be his duty to call the gentleman to order or to sustain the question of order raised by the gentleman from Massachusetts.

Mr. Ashmun having appealed, the question was taken by tellers, and the decision of the Chair was overruled, ayes 77, noes 80.

**5242.** On July 27, 1852,<sup>7</sup> while the river and harbor appropriation bill was under consideration in Committee of the Whole House on the state of the Union, the Chairman<sup>8</sup> addressed the committee as follows:

Before proceeding to the consideration of the pending amendments, the Chair asks the indulgence of the committee to state, in advance, a decision which he feels himself called upon to make relative to the further consideration of this bill. And, inasmuch as this decision will be an innovation upon the practice of the Committee of the Whole on the state of the Union, he announces it in advance, that no member of the committee, when called to order under it, may suppose the Chair personal or invidious, and that the committee, by an examination of the question, may be prepared to sustain or overrule the Chair.

The thirty-fourth rule \* \* \* is as follows:

“Any member shall be allowed in committee five minutes to explain any amendment he may offer; after which, any member first obtaining the floor shall be allowed to speak five minutes in opposition to the amendment.”

<sup>1</sup>The tie vote would have sustained the Chair without his own vote. (See sec. 185 of Reed's Parliamentary Rules.)

<sup>2</sup>For this rule see section 5221 of this chapter.

<sup>3</sup>First session Thirty-first Congress, Globe, pp. 1594, 1596.

<sup>4</sup>Armistead Burt, of South Carolina, Chairman.

<sup>5</sup>First session Thirty-first Congress, Globe, p. 1194.

<sup>6</sup>Linn Boyd, of Kentucky, Chairman.

<sup>7</sup>First session Thirty-second Congress, Globe, p. 1938.

<sup>8</sup>Edson B. Olds, of Ohio, Chairman.

The Chair will feel himself bound to give a strict construction to this rule; and will hold, that all remarks upon the general merits of the bill will be out of order as "explaining" an amendment, and that all remarks touching the demerits of the bill will be out of order as opposing an amendment.

**5243.** On April 22, 1890,<sup>1</sup> the House was in Committee of the Whole House on the state of the Union considering the legislative, executive, and judicial appropriation bill, under the five-minute rule.

The paragraph under consideration relating to compensation of officers, clerks, and messengers of the Senate, Mr. Francis B. Spinola, of New York, was proceeding to discuss certain charges against a Member of the Senate.

Mr. Charles H. Grosvenor, of Ohio, made the point of order that the gentleman was not in order.

The Chairman<sup>2</sup> said:

The Chair is prepared to decide the question of order. There is no necessity for debate. The Committee has under consideration a general appropriation bill making provision for the payment of the legislative, judicial, and executive salaries. The rule of the House has been read in the hearing of the Committee, and the Chair assumes that the members of the Committee are as familiar with the rule as the Chair. The Chair is familiar with the practice that has obtained since the present occupant of the chair has been a Member of the House, and knows that considerable latitude has always been allowed in debate in Committee of the Whole under this rule; but the Chair is clearly of the opinion—and there can be no doubt about it—that if the point of order is made in a case such as is presented now it is the duty of the Chair to hold that such remarks as have been indulged in are clearly not in order in discussing an amendment to this bill. The gentleman from New York has three minutes and the Chair hopes the gentleman will proceed in order.

**5244.** On May 25, 1892,<sup>3</sup> the House was in Committee of the Whole House on the state of the Union considering the sundry civil appropriation bill. The Committee were considering under the five-minute rule a paragraph appropriating for the World's Columbian Exposition.

Mr. Henry U. Johnson, of Indiana, having been recognized, proceeded to discuss a subject not contained in the paragraph, namely, the killing of Eli Ladd, in Henry County, Ind., to which reference had been made during the debate.

Mr. Joseph D. Sayers, of Texas, having made the point of order that the gentleman from Indiana was not proceeding in order, the Chairman ruled that the gentleman from Indiana must confine himself to the question.

Mr. Johnson having proceeded, he was again called to order by Mr. George D. Wise, of Virginia.

The Chairman<sup>4</sup> ruled that the gentleman from Indiana should take his seat.

Mr. Charles A. Boutelle, of Maine, moved that the Member from Indiana be permitted to explain. This motion was decided in the negative.

**5245.** On January 30, 1897,<sup>5</sup> the agricultural appropriation bill was under consideration under the five-minute rule in Committee of the Whole House on the state of the Union, and Mr. John F. Shafroth, of Colorado, having the floor, was proceeding to discuss the money question and the relations of gold and silver.

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<sup>1</sup>First session Fifty-first Congress, Record, p. 3695.

<sup>2</sup>Lewis E. Payson, of Illinois, Chairman.

<sup>3</sup>First session Fifty-second Congress, Record, pp. 4689, 4690.

<sup>4</sup>Rufus E. Lester, of Georgia, Chairman.

<sup>5</sup>Second session Fifty-fourth Congress, Record, p. 1355.

Mr. James W. Wadsworth, of New York, having made the point of order that the gentleman was not speaking to the paragraph, the Chairman sustained the point of order.

Mr. Shafroth having appealed from the decision, the Chairman<sup>1</sup> said:

The Committee is now discussing a particular item in an appropriation bill. Upon that the gentleman from Colorado arose and made a speech upon the question of silver, and other questions, which the Committee heard. The point of order was made by the gentleman from New York [Mr. Wadsworth] that the remarks of the gentleman from Colorado were not upon the subject-matter of the paragraph under consideration by the Committee. Upon that the Chair held that the remarks were not in order. From that the gentleman from Colorado appeals, and the question is upon sustaining the decision of the Chair.

The Chair was sustained by 70 yeas to 40 nays.

**5246.** On March 29, 1897,<sup>2</sup> the Committee of the Whole House on the state of the Union were considering the tariff bill under the five-minute rule, the paragraph relating to "clays or earths" being before them.

Mr. Richard P. Bland, of Missouri, having taken the floor, Mr. John Dalzell, of Pennsylvania, as a parliamentary inquiry, asked if it was in order for the gentleman from Missouri to make a silver speech under guise of debate on the paragraph.

The Chairman<sup>2</sup> said:

The gentleman from Pennsylvania makes a parliamentary inquiry, and the Chair must respond to it. Section 5 of Rule XXIII provides that—

"When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it."

The Chair thinks the clear meaning of that provision is that the debate shall be confined to the subject under consideration. It is true that heretofore great latitude has been allowed in Committee of the Whole, but the Chair thinks that at no time has that latitude been extended so far as to allow debate beyond the provisions of the bill, even when it has tolerated debate beyond the portion of the bill immediately under consideration.

**5247.** On February 24, 1898,<sup>4</sup> the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union under the five-minute rule, when Mr. Lemuel E. Quigg, of New York, proposed to reply to certain charges made on the previous day in regard to campaign funds in the State of New York.

Mr. Joseph G. Cannon, of Illinois, made the point of order that this did not relate to the subject under consideration.

The Chairman sustained<sup>1</sup> the point of order.

**5248.** On March 11, 1898,<sup>5</sup> the House was in Committee of the Whole House considering under the five-minute rule the bill (H. R. 4936) for the allowance of claims for stores and supplies under the Bowman Act. Mr. James Hamilton Lewis, of Washington, having been recognized, proceeded to discuss a statement made in the public prints concerning the boundary between the United States and Canada.

<sup>1</sup> Sereno E. Payne, of New York, Chairman.

<sup>2</sup> First session Fifty-fifth Congress, Record, p. 438.

<sup>3</sup> James S. Sherman, of New York, Chairman.

<sup>4</sup> Second session Fifty-fifth Congress, Record, p. 2142.

<sup>5</sup> Second session Fifty-fifth Congress, Record, pp. 2735, 2736.

Mr. John S. Williams, of Mississippi, made the point of order that the remarks of the gentleman were not germane to the subject before the Committee.

The Chairman<sup>1</sup> sustained the point of order.

**5249.** On March 25, 1898,<sup>2</sup> the House was in Committee of the Whole House on the state of the Union considering the naval appropriation bill.

The Clerk having read, for debate under the five-minute rule, the paragraph relating to "Pay, miscellaneous" of the Navy, Mr. Charles S. Hartman, of Montana, secured the floor and was proceeding to speak on the issues of national party politics, when Mr. Charles A. Boutelle, of Maine, made the point of order that the gentleman was not addressing himself to the measure before the House.

The gentleman from Montana urged that in Committee of the Whole on the state of the Union it was permissible to discuss the general condition of the country.

The Chairman<sup>3</sup> sustained the point of order, making a distinction between general debate and debate under the five-minute rule.

On an appeal taken by Mr. Joseph W. Bailey, of Texas, the decision of the Chair was sustained, 116 ayes to 99 nays, on a vote by tellers.

Then, on motion of Mr. Benton McMillin, of Tennessee, the House voted that the gentleman from Montana might proceed in order.

Again on the same day Mr. Hartman was called to order, and Mr. Joseph W. Bailey, of Texas, moved that he be permitted to proceed in order.

Mr. Nelson Dingley, of Maine, raised the point that the motion prescribed by the rule<sup>4</sup> was that the gentleman should be allowed to explain.

So Mr. Bailey modified his motion, and the question being put, the House decided—116 nays to 104 yeas—that the gentleman from Montana should not be permitted to explain.<sup>5</sup>

**5250.** On February 26, 1898,<sup>6</sup> during the consideration of the sundry civil appropriation bill, under the five-minute rule, in Committee of the Whole House on the state of the Union, the paragraph relating to the care of national cemeteries was read.

Mr. James Hamilton Lewis, of Washington, being recognized, proceeded to discuss the relations of the United States with Spain.

Mr. Joseph G. Cannon, of Illinois, made the point of order.

The Chairman<sup>1</sup> sustained the point of order.

**5251.** On February 2, 1899,<sup>7</sup> the river and harbor bill (H. R. 11795) was under consideration in Committee of the Whole House on the state of the Union, and was being read for amendments under the five-minute rule, when the following paragraph was read:

Improving Forked Deer River, Tennessee: For maintenance, \$3,000.

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<sup>1</sup> Sereno E. Payne, of New York, Chairman

<sup>2</sup> Second session Fifty-fifth Congress, Record, pp. 3226–3236.

<sup>3</sup> James S. Sherman, of New York, Chairman.

<sup>4</sup> See section 5175 of this volume.

<sup>5</sup> During the debate a precedent (Record, p. 2503, first session Fifty-fourth Congress), was cited, wherein it was held that gentlemen were not held to the subject in debating under the five-minute rule.

<sup>6</sup> Second session Fifty-fifth Congress, Record, pp. 2244, 2245.

<sup>7</sup> Third session Fifty-fifth Congress, Record p. 1399.

Mr. William P. Hepburn, of Iowa, moved to strike out the last word, and was proceeding to debate the subject of the improvement of the Muskingum River in Ohio.

Mr. Theodore E. Burton, of Ohio, made the point of order that the gentleman from Iowa was not confining himself to the subject before the House.

The Chairman<sup>1</sup> said:

The gentleman from Iowa is familiar with the rule that during the five-minute debate remarks must be germane to the pending proposition. \* \* \* In conformity with the uniform rule the gentleman from Iowa should confine himself to the matter under consideration.

**5252.** On February 9, 1900,<sup>2</sup> a Friday evening session, the House was in Committee of the Whole House, and the bill granting a pension to Sarah Potter was before the committee.

A motion was pending to amend the bill by inserting the words "subject to the provisions and limitations of the pension laws."

Mr. Thetus W. Sims, of Tennessee, having been recognized, was proceeding to discuss the general subject of pensions, when Mr. James A. Norton, of Ohio, made the point of order that the gentlemen from Tennessee was not confining himself to the subject.

The Chairman<sup>3</sup> sustained the point of order.

**5253.** On April 20, 1900,<sup>4</sup> the naval appropriation bill was under consideration in Committee of the Whole House on the state of the Union under the five-minute rule, the Clerk having read the paragraph relating to contingent expenses of the Bureau of Supplies and Accounts.

Mr. John W. Gaines, of Tennessee, being recognized, was proceeding to read in his own time a paper relating to the manufacture of armor plate.

Mr. Thaddeus M. Mahon, of Pennsylvania, made the point of order that the gentleman from Tennessee was not confining himself to the subject.

The Chairman<sup>5</sup> sustained the point of order.

**5254.** On June 5, 1900,<sup>6</sup> the Senate amendments to the Military Academy appropriation bill were under consideration in Committee of the Whole House on the state of the Union, and the question was on an amendment relating to the pay of certain watchmen.

Mr. John J. Lentz, of Ohio, having the floor, proposed to discuss a different subject; a point of order was made by Mr. William B. Shattuc, of Ohio.

The Chairman<sup>7</sup> said:

The point of order is well taken. \* \* \* The Chair will call the attention of the gentleman from Ohio to the fact that the committee is considering the amendment under the five-minute rule. The gentleman's colleague from Ohio has made the point of order that the remarks of the gentleman are not in order, and the Chair has ruled that they are not in order. The gentleman has insisted on his point of order, and the gentleman is not proceeding in order in debate.

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<sup>1</sup> Albert J. Hopkins, of Illinois, Chairman.

<sup>2</sup> First session Fifty-sixth Congress, Record, p. 1676.

<sup>3</sup> William P. Hepburn, of Iowa, Chairman.

<sup>4</sup> First session Fifty-sixth Congress, Record, p. 4482.

<sup>5</sup> Sereno E. Payne, of New York, Chairman.

<sup>6</sup> First session Fifty-sixth Congress, Record, p. 6742.

<sup>7</sup> Adam B. Capron, of Rhode Island, Chairman.

**5255.** On January 28, 1901,<sup>1</sup> the bill (H.R. 13423) for the codification and revision of the postal laws was under consideration in Committee of the Whole House on the state of the Union, and the Clerk was reading the bill by sections for amendment.

Mr. Dennis T. Flynn, of Oklahoma, having moved to strike out the last word, was proceeding to discuss a bill not then before the committee relating to certain Indian affairs.

Mr. John H. Stephens, of Texas, made the point of order that the debate was irrelevant.

The Chairman<sup>2</sup> held:

The Chair sustains the point of order. \* \* \* The Chair will state that when a bill is being read by sections the gentleman must confine his remarks to the pending section.

**5256.** On February 23, 1907,<sup>3</sup> the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union, the amendment being pending:

Insert the following:

“For the continuation of the analysis and testing of the coal, lignite, and other mineral fuel substances belonging to the United States, in order to determine their fuel value, etc., under the supervision of the Director of the Geological Survey, to be immediately available, \$250,000.”

Mr. Richard Bartholdt, of Missouri, as an amendment to the amendment, moved to strike out the last word, and was proceeding:

What the gentleman from Minnesota said about the character and standing of the St. Louis engineer who wrote the letter about fuel tests is true—

Mr. Oscar W. Underwood, of Alabama, here interposed with the point of order that the gentleman from Missouri was not speaking to his amendment.

The Chairman<sup>4</sup> sustained the point of order.

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<sup>1</sup> Second session Fifty-sixth Congress, Record, p. 1585.

<sup>2</sup> George P. Lawrence, of Massachusetts, Chairman.

<sup>3</sup> Second session Fifty-ninth Congress, Record, p. 3806.

<sup>4</sup> James E. Watson, of Indiana, Chairman.